

AMENDED IN ASSEMBLY APRIL 30, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 364

Introduced by Assembly Member Gipson

February 17, 2015

An act to amend Section ~~326.5~~ 19596.2 of the ~~Penal~~ *Business and Professions Code*, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 364, as amended, Gipson. ~~Gambling: charity bingo. Horse racing: out-of-state thoroughbred races: Belmont Derby Invitational.~~

The Horse Racing Law authorizes a thoroughbred racing association or fair to distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen and horsewomen participating in the race meeting and without regard to the amount of purses. Under that law, the total number of thoroughbred races imported by associations or fairs on a statewide basis under these provisions are required to not exceed 50 per day on days when live thoroughbred or fair racing is being conducted in the state, with the exception of prescribed races, including races imported that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai World Cup, the Arkansas Derby, the Apple Blossom Handicap, or the Haskell Invitational.

This bill would also exempt from the 50 imported race-per-day limitation, races imported that are part of the race card of the Belmont Derby Invitational.

~~The California Constitution authorizes the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law permits a city, county, or city and county to allow bingo, as defined, to be conducted by specified organizations for charitable purposes pursuant to an ordinance that allows those games to be conducted only in accordance with specified requirements. Existing law prohibits the total value of prizes available to be awarded during the conduct of those games from exceeding \$500 in cash or kind, or both, for each separate game that is held.~~

~~This bill would increase the amount described above from \$500 to \$1,000.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19596.2 of the Business and Professions
- 2 Code is amended to read:
- 3 19596.2. (a) Notwithstanding any other law and except as
- 4 provided in Section 19596.4, a thoroughbred racing association
- 5 or fair may distribute the audiovisual signal and accept wagers on
- 6 the results of out-of-state thoroughbred races conducted in the
- 7 United States during the calendar period the association or fair is
- 8 conducting a race meeting, including days on which there is no
- 9 live racing being conducted by the association or fair, without the
- 10 consent of the organization that represents horsemen and
- 11 horswomen participating in the race meeting and without regard
- 12 to the amount of purses. Further, the total number of thoroughbred
- 13 races imported by associations or fairs on a statewide basis under
- 14 this section shall not exceed 50 per day on days when live
- 15 thoroughbred or fair racing is being conducted in the state. The
- 16 limitation of 50 imported races per day does not apply to any of
- 17 the following:
- 18 (1) Races imported for wagering purposes pursuant to
- 19 subdivision (c).
- 20 (2) Races imported that are part of the race card of the Kentucky
- 21 Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont

1 Stakes, the Jockey Club Gold Cup, the Travers Stakes, the
2 Arlington Million, the Breeders' Cup, the Dubai *World Cup*, the
3 Arkansas Derby, the Apple Blossom Handicap, *the Belmont Derby*
4 *Invitational*, or the Haskell Invitational.

5 (3) Races imported into the northern zone when there is no live
6 thoroughbred or fair racing being conducted in the northern zone.

7 (4) Races imported into the combined central and southern zones
8 when there is no live thoroughbred or fair racing being conducted
9 in the combined central and southern zones.

10 (b) Any thoroughbred association or fair accepting wagers
11 pursuant to subdivision (a) shall conduct the wagering in
12 accordance with the applicable provisions of Sections 19601,
13 19616, 19616.1, and 19616.2.

14 (c) No thoroughbred association or fair may accept wagers
15 pursuant to this section on out-of-state races commencing after 7
16 p.m., Pacific standard time, without the consent of the harness or
17 quarter horse racing association that is then conducting a live racing
18 meeting in Orange *County* or Sacramento ~~Counties~~. *County*.

19 ~~SECTION 1. Section 326.5 of the Penal Code is amended to~~
20 ~~read:~~

21 ~~326.5. (a) Neither the prohibition on gambling in this chapter~~
22 ~~nor in Chapter 10 (commencing with Section 330) applies to any~~
23 ~~bingo game that meets all of the following conditions:~~

24 ~~(1) It is conducted in a city, county, or city and county pursuant~~
25 ~~to an ordinance enacted under Section 19 of Article IV of the State~~
26 ~~Constitution, if the ordinance allows games to be conducted only~~
27 ~~in accordance with this section and only by organizations exempted~~
28 ~~from the payment of the bank and corporation tax by Sections~~
29 ~~23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k,~~
30 ~~23701w, and 23701l of the Revenue and Taxation Code.~~

31 ~~(2) It is conducted by a mobilehome park association, senior~~
32 ~~citizens organization, or charitable organization affiliated with a~~
33 ~~school district.~~

34 ~~(3) The receipts of the bingo game are used only for charitable~~
35 ~~purposes.~~

36 ~~(b) It is a misdemeanor for a person to receive or pay a profit,~~
37 ~~wage, or salary from any bingo game authorized by Section 19 of~~
38 ~~Article IV of the California Constitution. Security personnel~~
39 ~~employed by the organization conducting the bingo game may be~~

1 paid from the revenues of bingo games, as provided in subdivisions
2 (j) and (k).

3 (e) A violation of subdivision (b) shall be punishable by a fine
4 not to exceed ten thousand dollars (\$10,000), which fine is
5 deposited in the general fund of the city, county, or city and county
6 that enacted the ordinance authorizing the bingo game. A violation
7 of any provision of this section, other than subdivision (b), is a
8 misdemeanor.

9 (d) The city, county, or city and county that enacted the
10 ordinance authorizing the bingo game may bring an action to enjoin
11 a violation of this section.

12 (e) Minors shall not be allowed to participate in any bingo game.

13 (f) An organization authorized to conduct bingo games pursuant
14 to subdivision (a) shall conduct a bingo game only on property
15 owned or leased by it, or property whose use is donated to the
16 organization, and which property is used by that organization for
17 an office or for performance of the purposes for which the
18 organization is organized. This subdivision does not require that
19 the property owned or leased by, or whose use is donated to, the
20 organization be used or leased exclusively by, or donated
21 exclusively to, that organization.

22 (g) A bingo game shall be open to the public, not just to the
23 members of the authorized organization.

24 (h) A bingo game shall be operated and staffed only by members
25 of the authorized organization that organized it. Those members
26 shall not receive a profit, wage, or salary from a bingo game. Only
27 the organization authorized to conduct a bingo game shall operate
28 the bingo game, or participate in the promotion, supervision, or
29 any other phase of a bingo game. This subdivision does not
30 preclude the employment of security personnel who are not
31 members of the authorized organization at a bingo game by the
32 organization conducting the game.

33 (i) An individual, corporation, partnership, or other legal entity,
34 except the organization authorized to conduct a bingo game, shall
35 not hold a financial interest in the conduct of a bingo game.

36 (j) With respect to organizations exempt from payment of the
37 bank and corporation tax by Section 23701d of the Revenue and
38 Taxation Code, all profits derived from a bingo game shall be kept
39 in a special fund or account and shall not be commingled with any

1 other fund or account. Those profits shall be used only for
2 charitable purposes.

3 (k) ~~With respect to other organizations authorized to conduct~~
4 ~~bingo games pursuant to this section, all proceeds derived from a~~
5 ~~bingo game shall be kept in a special fund or account and shall not~~
6 ~~be commingled with any other fund or account. Proceeds are the~~
7 ~~receipts of bingo games conducted by organizations not within~~
8 ~~subdivision (j). Those proceeds shall be used only for charitable~~
9 ~~purposes, except as follows:~~

10 (1) ~~The proceeds may be used for prizes.~~

11 (2) (A) ~~Except as provided in subparagraph (B), a portion of~~
12 ~~the proceeds, not to exceed 20 percent of the proceeds before the~~
13 ~~deduction for prizes, or two thousand dollars (\$2,000) per month,~~
14 ~~whichever is less, may be used for the rental of property and for~~
15 ~~overhead, including the purchase of bingo equipment,~~
16 ~~administrative expenses, security equipment, and security~~
17 ~~personnel.~~

18 (B) ~~For the purposes of bingo games conducted by the Lake~~
19 ~~Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20~~
20 ~~percent of the proceeds before the deduction for prizes, or three~~
21 ~~thousand dollars (\$3,000) per month, whichever is less, may be~~
22 ~~used for the rental of property and for overhead, including the~~
23 ~~purchase of bingo equipment, administrative expenses, security~~
24 ~~equipment, and security personnel. Any amount of the proceeds~~
25 ~~that is additional to that permitted under subparagraph (A), up to~~
26 ~~one thousand dollars (\$1,000), shall be used for the purpose of~~
27 ~~financing the rebuilding of the facility and the replacement of~~
28 ~~equipment that was destroyed by fire in 2007. The exception to~~
29 ~~subparagraph (A) that is provided by this subparagraph shall remain~~
30 ~~in effect only until the cost of rebuilding the facility is repaid, or~~
31 ~~January 1, 2019, whichever occurs first.~~

32 (3) ~~The proceeds may be used to pay license fees.~~

33 (4) ~~A city, county, or city and county that enacts an ordinance~~
34 ~~permitting bingo games may specify in the ordinance that if the~~
35 ~~monthly gross receipts from bingo games of an organization within~~
36 ~~this subdivision exceed five thousand dollars (\$5,000), a minimum~~
37 ~~percentage of the proceeds shall be used only for charitable~~
38 ~~purposes not relating to the conducting of bingo games and that~~
39 ~~the balance shall be used for prizes, rental of property, overhead,~~
40 ~~administrative expenses, and payment of license fees. The amount~~

1 of proceeds used for rental of property, overhead, and
2 administrative expenses is subject to the limitations specified in
3 paragraph (2):

4 (l) (1) A city, county, or city and county may impose a license
5 fee on each organization that it authorizes to conduct bingo games.
6 The fee, whether for the initial license or renewal, shall not exceed
7 fifty dollars (\$50) annually, except as provided in paragraph (2):
8 If an application for a license is denied, one-half of any license
9 fee paid shall be refunded to the organization:

10 (2) In lieu of the license fee permitted under paragraph (1), a
11 city, county, or city and county may impose a license fee of fifty
12 dollars (\$50) paid upon application. If an application for a license
13 is denied, one-half of the application fee shall be refunded to the
14 organization. An additional fee for law enforcement and public
15 safety costs incurred by the city, county, or city and county that
16 are directly related to bingo activities may be imposed and shall
17 be collected monthly by the city, county, or city and county issuing
18 the license. However, the fee shall not exceed the actual costs
19 incurred in providing the service:

20 (m) A person shall not be allowed to participate in a bingo game,
21 unless the person is physically present at the time and place where
22 the bingo game is being conducted:

23 (n) The total value of prizes available to be awarded during the
24 conduct of any bingo games shall not exceed one thousand dollars
25 (\$1,000) in cash or kind, or both, for each separate game that is
26 held:

27 (o) As used in this section, "bingo" means a game of chance in
28 which prizes are awarded on the basis of designated numbers or
29 symbols that are marked or covered by the player on a tangible
30 card in the player's possession and that conform to numbers or
31 symbols, selected at random and announced by a live caller.
32 Notwithstanding Section 330c, as used in this section, the game
33 of bingo includes tangible cards having numbers or symbols that
34 are concealed and preprinted in a manner providing for distribution
35 of prizes. Electronics or video displays shall not be used in
36 connection with the game of bingo, except in connection with the
37 caller's drawing of numbers or symbols and the public display of
38 that drawing, and except as provided in subdivision (p). The
39 winning cards shall not be known prior to the game by any person
40 participating in the playing or operation of the bingo game. All

1 ~~preprinted cards shall bear the legend, “for sale or use only in a~~
2 ~~bingo game authorized under California law and pursuant to local~~
3 ~~ordinance.” Only a covered or marked tangible card possessed by~~
4 ~~a player and presented to an attendant may be used to claim a prize.~~
5 ~~It is the intention of the Legislature that bingo as defined in this~~
6 ~~subdivision applies exclusively to this section and shall not be~~
7 ~~applied in the construction or enforcement of any other law.~~

8 ~~(p) (1) Players who are physically present at a bingo game may~~
9 ~~use hand-held, portable card-minding devices, as described in this~~
10 ~~subdivision, to assist in monitoring the numbers or symbols~~
11 ~~announced by a live caller as those numbers or symbols are called~~
12 ~~in a live game. Card-minding devices may not be used in~~
13 ~~connection with any game where a bingo card may be sold or~~
14 ~~distributed after the start of the ball draw for that game. A~~
15 ~~card-minding device shall do all of the following:~~

16 ~~(A) Be capable of storing in the memory of the device bingo~~
17 ~~faces of tangible cards purchased by a player.~~

18 ~~(B) Provide a means for bingo players to input manually each~~
19 ~~individual number or symbol announced by a live caller.~~

20 ~~(C) Compare the numbers or symbols entered by the player to~~
21 ~~the bingo faces previously stored in the memory of the device.~~

22 ~~(D) Identify winning bingo patterns that exist on the stored~~
23 ~~bingo faces.~~

24 ~~(2) A card-minding device shall not perform functions involving~~
25 ~~the play of the game other than those described in paragraph (1).~~
26 ~~Card-minding devices shall not do any of the following:~~

27 ~~(A) Be capable of accepting or dispensing any coins, currency,~~
28 ~~or other representative of value or on which value has been~~
29 ~~encoded.~~

30 ~~(B) Be capable of monitoring any bingo card face other than~~
31 ~~the faces of the tangible bingo card or cards purchased by the~~
32 ~~player for that game.~~

33 ~~(C) Display or represent the game result through any means,~~
34 ~~including, but not limited to, video or mechanical reels or other~~
35 ~~slot machine or casino game themes, other than highlighting the~~
36 ~~winning numbers or symbols marked or covered on the tangible~~
37 ~~bingo cards or giving an audio alert that the player’s card has a~~
38 ~~prize-winning pattern.~~

39 ~~(D) Determine the outcome of any game or be physically or~~
40 ~~electronically connected to any component that determines the~~

1 outcome of a game or to any other bingo equipment, including,
2 but not limited to, the ball call station, or to any other card-minding
3 device. Other player-operated or player-activated electronic or
4 electromechanical devices or equipment are not permitted to be
5 used in connection with a bingo game.

6 (3) (A) A card-minding device shall be approved in advance
7 by the department as meeting the requirements of this section and
8 any additional requirements stated in regulations adopted by the
9 department. Any proposed material change to the device, including
10 a change to the software used by the device, shall be submitted to
11 the department and approved by the department prior to
12 implementation.

13 (B) In accordance with Chapter 5 (commencing with Section
14 19800) of Division 8 of the Business and Professions Code, the
15 commission shall establish reasonable criteria for, and require the
16 licensure of, a person that directly or indirectly manufactures,
17 distributes, supplies, vends, leases, or otherwise provides
18 card-minding devices or other supplies, equipment, or services
19 related to card-minding devices designed for use in the playing of
20 bingo games by a nonprofit organization.

21 (C) A person or entity that supplies or services a card-minding
22 device shall meet all licensing requirements established by the
23 commission in regulations.

24 (4) The costs of any testing, certification, license, or
25 determination required by this subdivision shall be borne by the
26 person or entity seeking it.

27 (5) On and after January 1, 2010, the Department of Justice may
28 inspect all card-minding devices at any time without notice, and
29 may immediately prohibit the use of a device that does not comply
30 with the requirements established by the department in regulations.
31 The Department of Justice may at any time, without notice,
32 impound a device the use of which has been prohibited by the
33 commission.

34 (6) The Department of Justice shall issue regulations to
35 implement the requirements of this subdivision, and the California
36 Gambling Control Commission may issue regulations regarding
37 the means by which the operator of a bingo game, as required by
38 applicable law, may offer assistance to a player with disabilities
39 in order to enable that player to participate in a bingo game.
40 However, the means of providing that assistance shall not be

1 through an electronic, electromechanical, or other device or
2 equipment that accepts the insertion of a coin, currency, token,
3 credit card, or other means of transmitting value, and that does not
4 constitute, or is not a part of a system that constitutes, a video
5 lottery terminal, slot machine, or device prohibited by Chapter 10
6 (commencing with Section 330).

7 (7) The following definitions apply for purposes of this
8 subdivision:

9 (A) "Commission" means the California Gambling Control
10 Commission.

11 (B) "Department" means the Department of Justice.

12 (C) "Person" includes a natural person, corporation, limited
13 liability company, partnership, trust, joint venture, association, or
14 other business organization.